

Atty. Docket 24347-051 US
USSN 09/845,016

Section 3, Remarks and Response to Rejection:

REMARKS

All the amendments made herewith have been discussed and agreed-to between undersigned counsel and the Examiner in the telephone interview of January 14, 2004 a putting the case into complete condition for allowance, in view of the Grant of the Petition to convert this case to a CIP of the parent application, now US Patent 6,314,380.

This Amendment is submitted at the request of the Office, as there was not enough time today to enter an Examiner's Amendment. As Applicant's are concerned that the fax # designated for After Final amendments may still not be working correctly, Applicants will file this by Express Mail in the event that confirmation of receipt by fax is not received by close of business, Pacific Coast time.

No new matter has been introduced by the amendments to claims 11, 12, 31, 33 41 and 45. In addition, claim 35 was cancelled as redundant of the amendment to claim 31. claim 53 was cancelled as directed to non-elected subject matter, a restriction requirement having been made by the Examiner in the Interview today. The cancellation of claim 53 is with traverse and without prejudice to the filing of another divisional case to that subject matter. In addition, applicants reserve the right to file in that divisional, claims of the breadth of claims 41 - 46 as presented in the October 2002 amendment.

Please note that a new Declaration claiming benefit of the parent filing date under 35 USC 120 and the amendment to add the Cross-Reference section to page 1 to the Specification has already been entered by the Office, as no objection was made thereto in the Office Action of July 14, 2003.

Since the claims status is clear and the Seip et al patent is the parent of this case, the detailed discussion of the claim amendments set forth in the October 15, 2002 and November 4, 2002 responses in this case will not be repeated in order to conserve time and space. In addition, the Response to the Final Rejection dated Sept 26, 2003 fully responds to and overcomes the Section 103 rejection, and will not be repeated here to conserve space.

Indeed, the Final Rejection of July 14, 2003, on page 2, Section 1 of the Detailed Action, states in pertinent part "...the conversion of the present application into a CPI [sic: CIP] of the Seip patent [6,314,380] could have overcome the rejection, [but] the submission of the Supplement[al] Declaration and the CIP claim were not timely filed." The Grant of the Petition resolved the sole remaining substantive issue to allowance of this case. The minor amendments to the claims in the

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Interview today more clearly point out the inventions.


Applicants have in the prior Responses shown clearly that Liu does not teach or suggest the claimed combination or method. That was conceded in the Final Rejection. In view of the fact that this case is a C-I-P of the Seip et al Patent it is not a reference and the combination rejection falls. The rejection over Liu should be withdrawn, not only because Liu does not teach or suggest the claimed method and apparatus systems, but also because Seip et al is not available to cure the defects in Liu. In addition, even if Seip et al were available, there is nothing in either the Liu reference or Seip (not a reference) to suggest the combination, as set forth in detail in the Responses of Sept 26, 2003, May 9, 2003, October 15, 2002 and November 4, 2002.

CONCLUSION

It is understood that the case is now in complete condition for allowance and prompt disposition is requested.

Respectfully submitted,
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Date: January 14, 2004

by: 
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encl: Copy of fax transmittal cover sheet of 09/26/03

End of Section 3, Remarks.

End of Supplemental Response to Final Rejection

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To:	United States Patent & TM Office	From:	Jacques M. Dulin, Esq.
Company:		Our File #:	24347-051US
Fax:	703 872-9327	Pages:	15 + cover sheet
Phone:		Date:	September 26, 2003
Re:	Response to Final Rejection	Your File #:	

Sirs:

COPY

We are re transmitting to Fax No. 703 872-9327 this Response to Final Rejection Including Copy of Petition Under Rule 78(a)(2) for Unintentional Delayed Claim of CIP Status and To Accord this Case the Effective Filing Date of Parent Application.

We tried to fax this twice to 703 305 7687 but received two "poor line condition" reports indicating that the fax had not gone through.

I phoned the receptionist of Group Art Unit 3661 to request an alternate fax number for the purpose of this transmission. She provided (703) 306-4195 at approximately 4:10 p.m. EST. We sent one Fax to this Fax Number and we received the same "error message" this was at 4:27 EST.

We are now attempting to fax it to ~~703 872-9327~~ as the Receptionist in GAU 3661 suggested this another alternate. ✓

Please RUSH deliver this to Examiner Jacques H Louis-Jacques.

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